

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

**IN THE MATTER OF THE APPLICATION OF)
 DIAMOND BAR ESTATES LLC DBA DIAMOND)
 BAR ESTATES WATER COMPANY FOR A)
 CERTIFICATE OF PUBLIC CONVENIENCE)
 AND NECESSITY AND FOR APPROVAL OF)
 RELATED RATES AND CHARGES.)**

CASE NO. GNR-W-02-3**ORDER NO. 29247**

On November 29, 2002, Diamond Bar Estates LLC dba Diamond Bar Estates Water Company (Diamond Bar; Company), a water utility, filed an Application with the Idaho Public Utilities Commission for a Certificate of Public Convenience and Necessity to provide water service to the Diamond Bar Estates subdivision in Kootenai County, Idaho. The Company also requested approval of tariffs for related rates and charges. Reference Application Attachments, legal description and maps of subdivision and service area; *Idaho Code* § 61-526; Commission Rules of Procedure, IDAPA 31.01.01.111. The Diamond Bar Estates Subdivision is more particularly described as a portion of the North ½ of Section 3, Township 51 North, Range 4 West, Boise-Meridian, Kootenai County, Idaho.

The Commission in this Order finds that Diamond Bar is operating as a public utility subject to Commission jurisdiction, issues a related Certificate of Public Convenience and Necessity, approves an annual revenue requirement of \$15,534, establishes approved rates and charges, and requires adoption of general service provisions.

Background

The Diamond Bar water system currently provides service to approximately 41 customers and when complete will serve 45 households with water service. The Company indicates that initial service was started in 1994 by Diamond Bar Homeowners. On June 3, 2002, the Homeowners Association elected to turn the water system over to Diamond Bar Estates LLC. The Company proposes a 2001 test year and an annual revenue requirement of \$23,123. Commission Staff conducted an investigation and in filed comments proposes adjustments resulting in a revenue requirement of \$16,104. The Company in reply comments objects to some of Staff's adjustments.

Domestic water service for Diamond Bar is presently provided at a metered rate. Separate irrigation service (although also metered) is provided at a flat rate. The Company in its Application proposes two separate metered rates, one for domestic usage and one for irrigation. Staff in its comments recommends a single fixed (customer charge) and variable (commodity charge) rate design for all metered usage, domestic and irrigation. Several customers in comments recommend continuing the flat rate for irrigation.

The existing rates of the Company for residential customers are \$15 for the first 7500 gallons plus \$.95 per 1,000 gallons thereafter. Customers with irrigation service pay a flat fee of \$225 per year for irrigation.

Attached to the Application of Diamond Bar are 1) financial statements for 2000 and 2001, 2) water rates from different water districts, 3) proposed rate schedules, 4) customer names and addresses, 5) a legal description of the service area, 6) a plat map of the service area, 7) proposed connection fees, 8) customer notice for discontinuance of service, 9) bill statement, and 10) rule summary.

The rate structure proposed by Diamond Bar is as follows:

A customer's water usage will be determined by the reading on the meter. Readings will be taken the first week of each month (April through November) and the consumption figures will be measured in gallons used.

Diamond Bar Water Company will bill each current customer every month based on the following rate schedule which, as proposed, will go into effect January 1, 2003.

Domestic Service:

0-7500 gallons	\$21.00
more than 7500 gallons	.85 per thousand

Irrigation Service: .75 per thousand for all consumption

During the months of December through March, meters will not be read. The customers will be charged the base rate of \$21.00 per month. In April of each year customers' meters will be read and usage will be prorated according to the number of months since the last reading.

In addition to the commodity charge, the Company proposes implementing the following non-recurring charges:

A charge of \$1,000 for installation of water meter
A charge of \$500 for water hookup fee
A fee of \$50 will be charged for reconnection during business hours
A fee of \$65 will be charged for reconnection after normal business hours and weekends.

The Commission in Order No. 29177 suspended the Company's proposed January 1, 2003 effective date and determined that the Company should continue charging existing rates and charges until such time as the Commission issued an Order accepting, rejecting or modifying the Application.

On January 10, 2003, the Commission issued a Notice of Application, Public Workshop and Modified Procedure in Case No. GNR-W-02-3. Individual copies of the Commission's Notice were provided to all customers. A public workshop conducted by Commission Staff was held in Rathdrum, Idaho on February 11, 2003 to discuss the Company's Application. The established deadlines for filing written comments were February 18, 2003 for customers and February 21, 2003 for Commission Staff. Reply comments were filed by the Company on March 17, 2003.

On April 29, 2003, pursuant to Commission scheduling, a public hearing was held in Rathdrum to establish a formal transcript record of customer testimony and oral comments regarding the Company's Application and the various proposals for revenue requirement, rate design, and rates and charges. A May 6, 2003 deadline was established for further written comments. The Commission has reviewed and considered the filings of record in Case No. GNR-W-02-3 including the Company's Application, the filed comments of customers and Staff, the Company's reply comments and the transcript of public testimony.

Certificate of Public Convenience and Necessity

Based on the established record, a review of Idaho Code, Title 61 and the nature and manner of control exercised by Diamond Bar in the operation and management of the Diamond Bar Estates water system, we find it reasonable to assert formal regulatory jurisdiction over the water system operated by Diamond Bar Estates LLC and find it reasonable to issue Certificate of Public Convenience and Necessity No. 413 to Diamond Bar Estates LLC dba Diamond Estates Water Company, a public water utility, to provide water service to the Diamond Bar Estates subdivision in Kootenai County, Idaho. We further find that the present and/or future public

convenience and necessity requires issuance of said Certificate. Reference *Idaho Code* §§ 61-526, -528; IDAPA 31.01.01.111.

As a regulated utility, Diamond Bar is required to adopt the Commission's Utility Customer Relations Rules (UCRR; IDAPA 31.21.01) and Utility Customer Information Rules (UCIR; IDAPA 31.21.02). We find that the Rules provide a guide for just, reasonable and nondiscriminatory treatment of customers. The Commission also requires the Company to adopt an accounting system consistent with the information required by the Commission's Annual Report for Small Water Companies.

Customer Comments

Numerous and sometimes multiple written comments were filed with the Commission by customers of Diamond Bar. All comments were distributed to the Commissioners and are part of the official case file. Several of the commentators objected to a change in irrigation rates from a flat fee to a metered rate. Some also alleged that representations were made regarding the irrigation rate structure and rate amount at the time lots were purchased. Other comments were directed to ensuring that costs allowed in rates reflect actual expenses and operations of this Company. The Commission appreciates the insights that the customers provided in these comments.

Public Hearing – April 29, 2003

Two customers testified at the public hearing. Ms. Carol Abelhantz noted that the Company provides its utility billings to customers by postcard and that the annual postage expense should be reduced from \$172.20 to \$137.76, an annual difference of \$34.00.

Commission Findings:

The Commission finds the proposed adjustment for postage expense to be uncontested and reasonable and reflective of actual Company billing practice.

Mr. Mike Meehan in his testimony presents an alternative rate structure that continues a flat irrigation rate of \$250/summer, a domestic metered rate of \$.50/1,000 gallons up to 90,000 gallons and \$.70/1,000 gallons for usage exceeding 90,000 gallons. Also proposed is an annual fee of \$180 for all lot owners, regardless of whether or not they are hooked up. As calculated, Mr. Meehan's proposal provides the Company with total annual revenue of \$16,392 (irrigation \$5,750; domestic \$2,542; customer charge \$8,100).

Commission Findings:

As discussed later in this Order, we find that Mr. Meehan's proposal to continue a flat irrigation rate is not a fair and just rate design alternative.

May 6, 2003 Comments

In customer comments filed, the Commission is apprised that customers were without water for three hours on May 3, 2003 during a scheduled interruption of electric power by Kootenai Electric. During this outage, the water company did not engage its emergency back-up generation. The commenting customer contends that the Commission should require the water company to provide standby power generation capacity that is automatic when the primary source is lost. Failing same, the customer contends that customers are subjected to serious loss of property and perhaps life.

Commission Findings:

The Commission notes that it is not common for a small water system to have a back-up generator. As discussed later in this Order, we do not include either the operating expense or investment of the proposed back-up generator in the Company's revenue requirement.

Staff Comments – February 21, 2003

Following some general comments regarding the Diamond Bar Estates water system and its prior history as a homeowners association system, Staff addresses the following areas in its comments: financial analysis, rate design, hookup fees and consumer issues. Appended to Staff's comments were schedules for calculation of revenue requirement, Staff adjustment worksheets, and alternative rate design proposals. Based on its investigation and analysis, Staff in its comments makes the following uncontested recommendations:

1. The Certificate Request: Staff recommends that the Commission issue a Certificate of Convenience and Necessity.
2. Staff recommends that the rate design be reevaluated after one year to assess how usage patterns may have changed, what effect the new rates have had on customers bills, and how effectively the rate design generates the revenue requirement authorized by the Commission.
3. Staff recommends approval of the Company's requested \$500.00 one time meter fee for new irrigation meters.

4. Staff recommends that customer reconnection fees (voluntarily or involuntarily disconnected) be set at \$15.00 during normal business hours and \$30.00 at all other times. This charge does not apply to the seasonal installation or removal of irrigation meters.

Commission Findings:

The Commission finds Staff's uncontested adjustments to rate base and 2001 test year operating expenses to be reasonable and approves them. We also approve as reasonable the Company's proposed customer reconnection fees (voluntary and/or involuntary), i.e., \$15 during normal business hours and \$30 at all other times. This charge does not apply to the seasonal installation or removal of irrigation meters. We address Staff's other uncontested recommendations elsewhere in this Order.

Company Reply Comments

The Company prefaces its Reply Comments by stating that it would be willing to negotiate a sale of the water system back to homeowners association.

As a privately owned system, however, the Company contends that water customers must pay rates that support a self-sustaining system. How the system was financed when Mr. Turnipseed, as the developer, operated the system, the Company states, is of no importance to the analysis now before the Commission. The water system, the Company contends, became a self-supporting system on the date of the transfer from the homeowners association to the LLC, June 3, 2002.

Contested Adjustments

The Company provides the following specific comments, objections and alternative recommendations regarding Staff proposed adjustments:

Staff Adjustment (I): Technical Computer Support (Meter Statements Expense).

During the test year the water system paid \$560 for technical computer programming assistance. This was a one-time set up cost that is not an ongoing cost to be repeated every year. Staff eliminated this cost from the Company's test year expenses.

Company Position. The Company agrees that this is a one-time cost, however, this is a cost that will provide benefits for several years. If Staff does not want this cost to be expensed, then the Company contends it should be capitalized and depreciated over five years as are other computer expenses.

Staff Response. Staff agrees with the Company's proposal to capitalize and depreciate the \$560 technical computer support expense over five years.

Commission Findings:

The Commission finds the Company's proposal to capitalize and depreciate the \$560 technical computer support expense over five years to be reasonable.

Staff Adjustment (J): Back-up Generator.

Mr. Turnipseed acquired a gas/diesel electric power generator at a cost of \$5,500. The stated purpose for the acquisition was to provide back-up emergency pumping power in the event of a power failure. Staff observed this generator on the morning of February 11, 2003. The unit was stored in a building belonging to the Turnipseed family outside the subdivision and it was not in an operable condition. That evening Staff conducted a public workshop regarding this case and learned from Mr. Turnipseed that the unit was to be mounted on a trailer and be mobile. The generation unit is too small to operate the main well pump but would be used to provide power to the small back-up well located outside the subdivision on a farm owned by the Turnipseed family. Customers expressed concern that they should not be expected to pay depreciation expense and a return on a generator that was not permanent and dedicated to the water system. As a mobile unit, it could be easily transported to other locations and used for many other purposes. Staff notes that the unit is not currently available for use and as such the Commission could consider the unit as plant held for future use not included in rate base or subject to depreciation expense. Mr. Turnipseed has assured Staff that the unit will be put into serviceable condition this spring. Staff agrees with customers that indeed the mobile nature of the unit does make the unit subject to use not associated with the Diamond Bar water system. However, Staff does commend Mr. Turnipseed for his initiative to provide a source of back-up pumping power. Staff believes that a 50/50 sharing of responsibility for support of the unit appears reasonable and has removed ½ of the investment (\$2,750.00) from rate base, ½ of the depreciation expense (\$98.00 see Adjustment (N)) and ½ of the accumulated depreciation (\$98.00, see Adjustment (O)).

Company Position. The Company is disappointed that the Staff recognizes the need and usefulness of back-up generation but only wants to give credit for one-half of the cost of a generator. It appears to the Company that Staff's position is based in large part upon comments made by the Company that the generator would be mounted on a trailer. The Company informs the Commission of its intent to use the generator full-time as a back-up generator for the system and permanently install and place the generator at the back-up well location. The Company requests that the Commission allow full recovery of the cost of the generator including the

related cost of installing and housing. The estimated cost of installing the generator is \$11,838. The cost break down is as follows: generator \$5,500; concrete pad \$1,438; electric transfer switch/hookup \$2,500; and building \$2,400. Without full recovery of the ordinary and necessary operating costs such as the cost of a back-up generator, the Company contends that the water system cannot operate.

Staff Response. Staff concedes that it discounted the emergency back-up generator by 50% due to mobility. Staff notes that the second well, generator and proposed housing are located outside the subdivision on property belonging to the Turnipseed family and not the water company. Staff contends that for rate base consideration, the Company should obtain an easement from the Turnipseed family for permanent rights of access to the building, well and generator. Staff notes that the Company has indicated that it is unwilling to grant an easement. That being the case, should a back-up generator at the second well continue to be a reasonable requirement, Staff suggests that a service contract may be appropriate. No contract price has been proposed.

Commission Findings:

While the Commission agrees that a back-up generator can provide an added degree of service reliability, we find the Company's proposal to locate the generator at the second well and on non-utility owned property (without enforceable easement rights of access) to be unacceptable. We are also unconvinced that the history of service interruption justifies such an investment. We find instead, pending a further demonstration of need, that a more prudent course of action for the Company is to lease or rent a generator on an as needed basis. There being no record to support inclusion of reasonable expense for same, we eliminate all proposed expense and costs including depreciation associated with a back-up generator.

Staff Adjustment (L): Irrigation Meters.

The Company's Application includes \$2,951.00 of investment (rate base) in irrigation meters that were purchased during the test year. The Company has requested that it be allowed to earn a return of 14% on this investment. These meters have been provided to customers at no cost. Prior to the 2001 test year, all irrigation meters purchased have been treated as an expense. The Company has requested that in the future, customers requesting the installation of irrigation meters be required to pay a one-time initial connection fee of \$500.00 to pay for the meters. Staff believes it may be appropriate to collect such a fee that would be treated as a customer contribution and would offset the cost of the meter investment for rate base purposes. All irrigation meters

installed prior to 2001 while under the control of the homeowners association have been expensed and have no rate base valuation. All future irrigation meters would be contributed by the customer through the connection fee and would have no rate base valuation. Only the irrigation meters installed in 2001 and 2002 while still under the control of the homeowners association would be capitalized into rate base. Staff notes that the sale of the system from the homeowners association to the LLC was consummated at no cost to the LLC. Staff therefore reduces the Company's rate base by \$2,951.00.

Company Position. The Company notes that the meters on hand are presently being used and are part of the property acquired and transferred to the Company by the homeowners association. How the purchase of these meters was treated on the prior books, the Company contends, is of no consequence. Without being able to rate base the meters and expense replacement meters, the Company contends that there is simply no reasonable method to recover these costs. Without any manner for recovery, no further investment can be made. Staff's contention that a one-time connection fee of \$500 is sufficient to offset the cost of the meter investment for rate base purposes is disputed by the Company. Revenue generated from a \$500 connection fee, the Company states, would be insufficient.

Staff Response. Staff disagrees with the Company. Staff notes that what the Company is proposing would result in three classes of meters. The first class would be developer contributed meters, the initial 10 contributed prior to 2001. The second class would be the five meters in dispute acquired during 2001/2002 for which the Company requested to rate base \$2,951. The third class would be future meters which would be customer contributed.

Commission Findings:

The Commission notes that all meters acquired prior to transfer to Diamond Bar (including those purchased in 2001 and 2002) were transferred at no cost to the Diamond Bar. The Commission finds it reasonable in this case to apply what is a standard assumption for developer-built water systems, i.e., that the owner/developer recovers the cost of initial infrastructure including metering through the sale of lots. Reference Rule 103 "Policies and Presumptions for Small Water Companies," IDAPA 31.36.01.103. The investment is treated for regulatory purposes as contributed property with no permissible rate base addition. We find Staff's adjustments to eliminate this investment and associated depreciation expense from the revenue requirement calculation to be reasonable.

Staff Adjustment (M): Rate Case Expense.

The Company included an estimate of \$4,000 of rate case expense in its rate base calculation. Staff reviewed numerous prior orders of the Commission and cannot find a single instance where the Commission has included these costs as a rate base increment. Staff has eliminated this item from the rate base calculation. The Commission routinely allows amortization of such costs as an expense item over a period of years. The Company has requested and Staff concurs that a period of five years is a reasonable time frame for amortization of these costs. The requested amortization expense is \$800. Staff has seen no documentation in support of the expense level and requests that the Commission require such documentation prior to approval of the expense item. Staff has made no adjustment of the expense amount at this time.

Company Position. Staff in its comments recommended that documentation be submitted supporting this expense item. In preparation of the Application for the workshop, the Company reports that it has spent \$500 in accounting fees and \$585 in legal fees. The Company estimates that it will spend an additional \$800 in accounting fees and \$900 in legal fees to perfect its Reply Comments. Should a formal appeal prove necessary, the Company states that it is not unreasonable to expect the associated fees to reach and even exceed the \$4,000 expense originally presented by the Company. Therefore, the Company continues to request that \$4,000 of rate case expense be provided in the rate base calculation.

Staff Response. The Company has presented documentation consisting of actual and estimated or projected costs. The actual billed costs are \$1,085. Estimated additional costs to date are \$1,700. Staff contends that the remaining \$1,215 for costs of appeal are speculative and should not be allowed.

Commission Findings:

We find it reasonable to allow recovery of actual billed costs for accounting and legal services in the amount of \$1,085. We also find it reasonable to allow recovery of the estimated additional costs for accounting and legal services required to perfect the Company's Reply Comments in the amount of \$1,700. We approve total rate case expense of \$2,785. We approve recovery of this amount amortized over five years. The projected cost of appeal we find is speculative, not known and measurable and cannot be recovered.

Inflation.

The Company has arbitrarily included a 3% inflation factor in its calculation of revenue requirement. The Commission does not normally accept such an

adjustment absent substantial compelling evidence that it is necessary. The Company has offered no such compelling evidence. Therefore, Staff has excluded the inflation adjustment in its calculated revenue requirement of \$16,104.00.

Company Position. The Company included a 3% inflation factor anticipating that utility suppliers, Avista and Kootenai Electric Coop will receive rate adjustments this year increasing the cost of electricity to the Company. Given the low snowpack experienced by northern Idaho this winter, the Company does not believe its request to be arbitrary. The Company continues to request that a 3% inflation factor be included in the revenue requirement.

Staff Response. Neither Avista nor Kootenai Electric have requested or implemented a change in rates. The Company's requested inflation factor is speculative and should be denied as being neither known nor measurable.

Commission Findings:

The Commission finds the Company requested annual inflation factor for rates to be speculative and neither known nor measurable. We find it reasonable to deny this request.

Hook-up Fees.

The Company has requested several one-time charges in this request. The Company has requested: 1) a hook-up fee of \$1,000 for the installation of water meters; 2) \$500 for connection to the domestic system, and 3) \$500 for the installation of irrigation meters. Staff has reviewed these charges and believes the domestic hook-up fees are unreasonable. The Company has provided neither justification nor cost causation for the \$1,000 water meter installation or the \$500 connection charge. In fact, the Company has notified Staff that the charges were already collected at the sale of the lots and will not be collected again from anyone in the subdivision. The Company did discuss with Staff the cost to extend the main and connect an additional customer if requested. While it is conceivable that the Company could guess the location where a customer might want to extend and estimate a hook-up fee, Staff believes that a proper line extension policy is more appropriate. Staff recommends denial of the \$1,000 water meter fee and the \$500 water hook-up fee for domestic service. Staff further recommends that the Company work with Staff to develop an appropriate line extension tariff for the system and have it in place prior to extension of any service beyond those within the subdivision. Line extension tariffs protect existing customers from costs associated with extending service to new customers.

Staff has reviewed the costs for the parts included in the installation of irrigation meters, including the meter and backflow prevention device, and the costs are approximately \$500. Staff believes that the proposed \$500 one-time

charge is an appropriate charge to customers for the installation of their individual irrigation meters. Assessing each individual customer the cost of their installation, when the optional meter is requested, avoids spreading the costs to other customers who receive no benefit from such facilities. Furthermore, there is no physical reason for separate irrigation meters from a system standpoint and Staff's uniform rate proposal requires only a single meter for domestic and irrigation service. Therefore, Staff recommends approval of the Company's requested \$500 one-time meter fee for irrigation meters.

Company Position. Staff recommended a line extension policy in lieu of a hook-up fee and connection fee. The Company does not have a line extension policy in place. A sampling of surrounding water companies was completed and submitted as a part of the original Application. The Company contends that it is customary and typical of small water companies in northern Idaho to charge a hook-up fee and connection fee. The Company maintains that the charges presented are reasonable based upon the charges of similar water companies in the area and appear to be sufficient to reimburse the Company for the costs incurred for such connections.

Staff Response. Staff notes that regarding those lots in the subdivision, the hook-up and connection fees have already been paid. Should the Company choose to extend service outside the subdivision, Staff contends that the Company would need to request a Certificate amendment and any line extension costs would be recovered from the new customer requesting service.

Commission Findings:

The Commission finds that the owner/developer of the Diamond Bar Estates water system recovered meter and hook-up fees from each lot owner in the Diamond Bar Estates subdivision at the time of purchase. We find it reasonable to deny the Company's request to establish a \$1,000 domestic water meter fee and \$500 domestic water hook-up fee. The Commission is persuaded that for further extension of service outside the existing subdivision, the Company should adopt a line extension policy for first-time connections in lieu of a hook-up fee and connection fee. The Company is directed to work with Staff to develop an appropriate line extension tariff for extension of service beyond the existing subdivision boundary. The Commission finds the requested \$500 one-time meter fee for irrigation meters to be cost justified and approves the charge as reasonable for new irrigation customers.

Return on Rate Base.

The Company, in its Application, used a return on rate base of 14% to calculate its required revenue requirement. Staff, in its comments, opposed this rate and proposed a rate of 12%. One of the customer comments recommended a return of no more than 8.5% based upon the earnings of 16 western publicly traded utilities. Staff stated in its comments “. . . that the earnings of many publicly traded utilities are currently at very low levels. As the economy recovers from its current recession, these returns should increase. The Commission has on numerous occasions recognized that the risks associated with ownership of a small water system with a small rate base and limited cash flow are inherently greater than the risks associated with a large company with a much larger customer base. The Commission has consistently used a 12% rate of return level for small water companies for many years and Staff sees no compelling reason to deviate from that return level.” The Company did not address this issue in its reply comments.

Commission Findings:

Based upon the record in this case, we find a return on rate base of 12% is fair, just and reasonable for this small water company.

Revenue Requirement.

Based upon our findings as outlined above, we calculate the revenue requirement for this Company as shown in the following table.

Diamond Bar Estates Water Co.
Commission Adjustments to Staff Revenue Requirement

Description	Rate Base	Expenses
Staff Proposed Rate Base	\$ 5,152.00	
Staff Proposed Expenses		\$15,349.42
<u>Commission Adjustments to Staff Recommendations</u>		
Computer Set-up Costs		
Add to Rate Base	560.00	
Incremental Depreciation Exp. (5 Yr.)		112.00
Back-up Generator		
Eliminate from Staff Rate Base	(2,750.00)	
Eliminate from Staff Accumulated Depreciation	98.00	
Eliminate from Staff Depreciation Expense		(98.00)
Rate Case Expense Amortization		
Staff Proposed Expense Amortization	\$ 800.00	
Actual Expenses	2,785.00	
5 Year Amortization	557.00	
Expense Adjustment		(243.00)
Postage Adjustment (Abelhanz Testimony)		(34.44)
Commission Approved Rate Base	\$ 3,060.00	
Commission Approved Expenses		<u>\$15,085.98</u>

Revenue Requirement Calculation

Rate Base	\$ 3,060.00
Rate of Return	12%
Net Operating Income Requirement	\$ 367.20
Net to Gross Tax Multiplier	1.22
	\$ 447.98
Add Operating Expenses	15,085.98
Total Revenue Requirement	<u>\$15,533.97</u>

Rate Design.

After considering numerous rate design alternatives, Staff proposes a fixed/variable rate design of a \$21.00 base charge for the first 7,500 gallons and then \$0.50 /1000 gallon for each gallon thereafter for all water used by each customer (see Staff Comments Attachment "E"). Staff has considered customers' and the Company's concerns in this rate design. First, if historical

usage is any indication, irrigation customers that use the historical average irrigation volume should experience no increase in irrigation costs over the previous year. However, customers that use as much as the largest users on the system (665,000 gallons annually), will experience a 26% (\$225 to \$283 annually) increase in irrigation costs. Second, even though the base rate will go up by 40% (\$15 to \$21 monthly) the overall average monthly rate is anticipated to increase by only 14%. Third, Staff's proposal addresses the Company's concern regarding revenue generation in the winter months by providing the same winter revenue as requested by the Company. Staff's proposal also provides increased revenue as usage increases to offset the increase in costs of service. Finally, both the flat rate and the fixed/variable rate proposals are generally in alignment with other regulated water companies in the vicinity (see Staff Comments Attachment "F").

Staff recommends a fixed/variable rate design with a base rate of \$21 for the first 7,500 gallons and then \$0.50/1000 gallons for each gallon thereafter. Staff further recommends that this rate design be reevaluated after one year to assess how usage patterns may have changed, what effect the new rates have had on customer bills, and how effectively the rate design generates the revenue requirement authorized by the Commission.

Company Position. Staff recommends a fixed variable rate design without a separate rate for irrigation. The Company prefers a separate rate for irrigation. However, knowing Staff's preference on the issue, and its recommendation for a \$21 base charge for the first 7500 gallons and then \$.50 per 1000 gallons for each gallon thereafter, the Company tested the proposed rate against current data for water usage. The Company states that its analysis shows that the rate design proposed by Staff would be insufficient to meet the revenue needs established by Staff, \$16,104, for the system. The Company respectfully requests that the base rate charge be changed from \$21 to \$23.50 so that the revenue needs established by Staff can be met. Additionally, if the Commission should determine to allow any or all of the changes requested by the Company, the Company requests that the base rate be further increased to allow coverage for the revenue requirement allowed. The Company includes a survey of water rates from different water districts in the area.

Staff Response. Staff notes that the Company's analysis is based upon actual versus normalized data (fewer customers than currently connected to the system) and produces an erroneous result. Staff notes that a lot of customers have not established their lawns and their irrigation usage will likely increase.

Commission Findings:

The Commission is persuaded that the more reasonable rate design for Diamond Bar is the one proposed by Staff. We specifically reject as unreasonable a separate flat rate for metered irrigation water. A flat rate is unfair to low usage customers and does not promote conservation. Based on an approved revenue requirement of \$15,534, we approve a \$21.00 per month customer charge plus a \$.45 per 1,000 gallons commodity rate for all water usage exceeding a monthly base allowance of 7,500 gallons. The rate design is to be re-evaluated by Staff after one year to assess how usage patterns may have changed, what effect the new rates have had on customer bills, and how effectively the rate design generates the authorized revenue requirement.

Annual flat irrigation fees already collected by the Company under its present rate structure are to be prorated and the customer's account credited for the remaining summer months. The Company and Staff are directed to work together to design an acceptable proration formula.

CONCLUSIONS OF LAW

The Idaho Public Utilities Commission has jurisdiction and authority over Diamond Bar Estates LLC dba Diamond Bar Estates Water Company, a public water utility, and the issues raised in this Application, pursuant to Title 61 of the Idaho Code and the Commission's Rules of Procedure, IDAPA 31.01.01.000 *et seq.*

ORDER

In consideration of the foregoing and as more particularly described above, IT IS HEREBY ORDERED and the Commission does hereby issue Certificate of Public Convenience and Necessity No. 413 to Diamond Bar Estates LLC dba Diamond Bar Estates Water Company for water service to the Diamond Bar Estates Subdivision in Kootenai County, Idaho.

IT IS FURTHER ORDERED and the Commission does hereby establish rates and charges as set out above. The Company is directed to file tariff sheets reflecting authorized rates, including non-recurring charges and general service provisions.

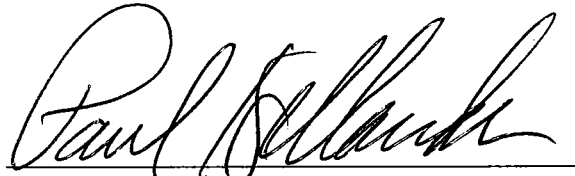
IT IS FURTHER ORDERED and the Company is required to adopt and implement the Commission's Utility Customer Relations Rules and Utility Customer Information Rules, and an accounting system consistent with information required by the Commission's Annual Report for Small Water Companies.

IT IS FURTHER ORDERED and the Company is required to inform its customers of the Commission approved rates and policies. The effective date for the change in rates and charges is June 1, 2003.

IT IS FURTHER ORDERED and the Company is required to make written petition or application to the Commission prior to any proposed change in ownership of the Diamond Bar water system.

THIS IS A FINAL ORDER. Any person interested in this Order may petition for reconsideration within twenty-one (21) days of the service date of this Order. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration. See *Idaho Code* § 61-626.

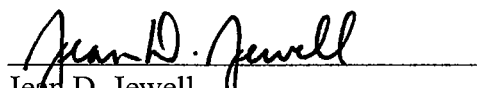
DONE by Order of the Idaho Public Utilities Commission at Boise, Idaho this 30th day of May 2003.


PAUL KJELLANDER, PRESIDENT


MARSHA H. SMITH, COMMISSIONER


DENNIS S. HANSEN, COMMISSIONER

ATTEST:


Jean D. Jewell
Commission Secretary

bls/O:GNRW0203_sw2